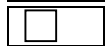


AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: JUNE 20, 2007

DEPARTMENT: PUBLIC WORKS**DIRECTOR: CHARLIE KAJKOWSKI**☐ Consent ☒ Discussion**SUBJECT:**

Discussion and possible action on an Encroachment Request from Jawa Studio on behalf of Lewis Center Parking, LLC, owner (northeast corner of Lewis Avenue and Casino Center Boulevard) - Ward 3 (Reese)

Fiscal Impact**No Impact****Augmentation Required****Budget Funds Available****Amount:****Funding Source:****Dept./Division:****PURPOSE/BACKGROUND:**

Due to a change of the original design of the building the doors located on the south side of the building along Lewis Avenue are not at ground level. Due to this change there is a significant elevation difference between the doors and the sidewalk making entering and exiting this side of the building difficult and not ADA compliant. Therefore, the developer is requesting constructing ramps and a patio deck with a guardrail on this side of the building. The ramp on the west side of the patio deck will rise from sidewalk level to an approximate height of 18-inches where it will connect to an approximate 5-foot wide to 10-foot wide patio deck. Sections of the patio deck will encompass existing landscaping and extend eastward along the building keeping flush with the floor level where it will connect to the eastern ramp. The eastern ramp will decrease from a height of approximately 2-feet to sidewalk level. There will be two sets of stairs located near the middle section of the ramp. The patio deck and ramps are for the existing Lewis Center Parking Garage.

RECOMMENDATION:

Denial. Staff feels this is a self-imposed hardship and that the requested improvements can be developed on-site and not within the public-right-of-way. If City Council does approve the Encroachment Request, the developer will be required to sign an Encroachment Agreement that has conditions of maintenance, liability and removal.

BACKUP DOCUMENTATION:

1. Copy of Encroachment Exhibit "A" (northeast corner of Lewis Avenue and Casino Center Boulevard)
2. Copy of Encroachment Exhibit "B" (vicinity map and typical section)
3. Submitted at meeting – Comments by Tom McGowan

Motion made by GARY REESE to Hold in Abeyance to 7/11/2007

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Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 1; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-STEVE WOLFSON); (Excused-None)

Minutes:

CHARLIE KAJKOWSKI, Director of Public Works, stated that the individual Council members were thoroughly briefed on this matter. However, at the request of COUNCILMAN REESE, he explained the situation, noting that staff recommended denial. Referring to the floor plan submitted by the applicant, MR. KAJKOWSKI explained that the original access to the eight-and-a-half-story parking garage, with retail on the first floor, was on Casino Center through a corridor. When the building was under construction, the plan was subsequently modified to allow access from Lewis, but this is a problem because there is an elevation difference between the sidewalk and the building interior. In order for the businesses to have access off Lewis, the applicant needs to negotiate the grade difference. Staff is advocating that the applicant modify the interior of the building to make the grade difference. However, the applicant proposes that a platform be constructed within the City right-of-way with stairs and ramps to come up to the level of the building. This would help them conform to ADA access requirements.

COUNCILMAN REESE asked if the correction could be made from the building interior. MR. KAJKOWSKI replied that staff received a number of requests to use the right-of-way to provide ADA business access. However, another business on Main Street previously made a similar request, to put ramps on First Street, which the City denied. That business made changes to the interior building floor, cut out concrete and installed ramps and stairs to meet ADA conformance and access. Approving this matter would set a precedent. He explained that, as blocks are consolidated for full-block developments, the properties will have to contend with the exterior sloping ground and accommodate the grade difference. The downtown area slopes from west to east, which all the oncoming high-rise buildings downtown have had to accommodate.

COUNCILMAN REESE confirmed with MR. KAJKOWSKI that the City is not responsible for the problem in this matter. MR. KAJKOWSKI added that the problem lies strictly with the owner and his design team, reiterating that the original plan was to come off Lewis and through the corridor to access the businesses.

MAHLON BROWN countered that his intent was never to access the building off of Casino Center. Nevertheless, he alleged that he previously owned the requested property; it was taken away by the City about twelve years ago without any challenge. Making the recommended changes to the interior building, in order to accommodate the grade difference, would be difficult and very expensive, as the structure is already in place. COUNCILMAN REESE asked how this was overlooked, to which MR. BROWN answered that the handsome side of the building is off Lewis, where he would like to place a patio setting and enhance it even more. He just did not see the problem with the grade difference until after the fact.

As far as the right-of-way issue, COUNCILMAN BROWN asked who originally owned the right-of-way. MR. KAJKOWSKI answered that it was probably part of the street-dedication

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process for the area, and the property line has been in place for forty to sixty years. The wall was probably removed because it was encroaching into City property, for which compensation would not have been made. He could check the records, but, to his knowledge, the right-of-way has been in the City's ownership for more than fifty years.

COUNCILMAN BROWN then questioned the length of the area from the edge of the parking garage to sidewalk curb, the length of the proposed patio and the footage to meet ADA requirements within the proposed patio. MR. KAJKOWSKI indicated that the length to the curb is 26 feet. As far as ADA pedestrian requirements, JOLENE PESCUA, 103 East Charleston Boulevard, answered that a five-foot clearance is preferred for a ramp.

COUNCILMAN BROWN requested an opinion from the City Attorney's office regarding the comments that approval of this request would set a bad precedent, because he thought every case had to be taken on its own merits, given the elevation differences in the downtown area. CITY ATTORNEY JERBIC opined that it would not set a legal precedent in the sense that it would bind the Council to grant future encroachments or easements to other people. It does, however, set a policy precedent in the sense that this has not been done before, and applicants that have been denied in the past may file a future request.

COUNCILMAN REESE stressed that he believes that mistakes can be made, and he does not believe the City would be setting a precedent by allowing MR. BROWN to carry out his proposal; he would be correcting a problem while putting a project that would be in line with the City's vision for the Lewis Street Corridor. COUNCILMAN BROWN supported COUNCILMAN REESE'S comments. However, he requested that MR. KAJKOWSKI work with CITY ATTORNEY JERBIC to ensure that this involves a unique situation and that the language is solid so that no future owners feel entitled to the easement, as well as that the owner seek approval of the overall design of the patio by the Department of Planning and Development. Also, he requested MR. BROWN consider making the patio deck bigger, perhaps two to four feet more, to take advantage of the existing tree wells and to fit in better with the Lewis Street streetscape. MR. KAJKOWSKI indicated that the item is written to request a ten-foot deck. COUNCILMAN REESE then opted to hold this matter in abeyance to July 11, 2007, in order to be able to work with staff, in the interim, on the suggestions made by COUNCILMAN BROWN.

TOM McGOWAN, Las Vegas resident, recommended approval.